

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
REVIEW PETITION NO. 48 OF 2007
IN
WRIT PETITION NO. 573 OF 2007
WITH
NOTICE OF MOTION NO. 431 OF 2007
WITH
CHAMBER SUMMONS NO. 335 OF 2007
AND
CHAMBER SUMMONS NO. ... OF 2007

Mumbai Mazdoor Sabha & Anr. .. Petitioners.

vs.

M/s. Pure Drinks Ltd., & Ors. .. Respondents.

Mr. C.U. Singh, Sr. Adv. i/by M/s. Sanjay Udeshi
& Co. for Petitioners.

Mr. S.K. Talsania, Sr. Adv. i/by M/s. Deepak Chitnis
Chiparikar & Co. for respondent no. 1.

Mr. P.M. Jadhav, AGP., for R. Nos. 2 to 5.

Mr. A.D. Shetty with Ms. R.K. Joshi for Applicant
in Ch/s. No. 335/07.

Mr. Shailesh Shah i/by Kanga & Co. for Applicant
in Ch/s. /07.

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CORAM: J.N. PATEL &

A.A. SAYED, JJ.

P.C.

. Heard.

2. This review petition has been taken out by Mumbai Mazdoor Sabha who claims to be the recognised union of respondent no. 1 taking exception to the orders passed by this court while disposing of writ petition no. 573 of 2007 which was filed by respondent no. 1 impugning the orders passed by respondent nos. 1 and 2 i.e. the Collector and District Magistrate of Mumbai City and Tehsildar for City of Mumbai pursuant to a recovery certificate which was issued by respondent no. 3 for recovery of dues of the employees of the petitioner.

3. The petitioner offered to discharge its liability against the said recovery certificate and, therefore, submitted that the matter can be disposed of by this Court as per the minutes of the order tendered by the parties which came to be accepted by this Court.

4. The review petitioner which is the recognised union objects to clauses (f) and (o) which read as under:-

"(f) On depositing entire amount due, the

Petitioner will be entitled to sell, transfer and dispose off the said movable and immovable properties in the manner the Petitioner may deem fit and proper.

- (o) The Respondent No. 3 upon the entire amount being deposited by the Petitioner to issue No Due Certificate and/or Certificate for payment of liabilities of the workers by the Petitioner."

It is contended by Mr. C.U. Singh, the learned senior advocate, appearing for the recognised union, that these clauses in the minutes of the order deprive the recognised union who represents the workers of the petitioner M/s. Pure Drinks Ltd., who are respondent no. 1 to the review petition as by such order the employer is entitled to sell, transfer and dispose of the said movable and immovable properties in the manner they deem fit and proper and further it directs the respondent no. 3 that upon the entire amount being deposited by the petitioner to issue No Due Certificate and/or Certificate for payment of liabilities of the workers by the petitioner.

5. It is contended that the claims of the workers are yet to be finally decided by the Industrial Court where a complaint is pending and

proceedings for issuance of recovery certificate are pending before the Labour Court.

6. On the other hand, a chamber summons has been taken out by Maharashtra Employees Union who want to intervene in the matter on the ground that they are the real representative of the employees of M/s. Pure Drinks Limited who have resigned from the recognised union and that they have settled the dues of all the workmen numbering 294 and that as per the memorandum of settlement arrived at between the employers and the workmen under section 2 (p) read with section 18(1) of the Industrial Disputes Act, 1947 they have no objection for clauses (f) and (o) in the minutes of the order of which review is sought as it is going to facilitate the workmen to get their dues.

7. Mr. C.U. Singh, the learned Senior Advocate appearing for the review petitioner, submits that this is disputed as the settlement is signed by one F.R. Mishra claiming to be the President of the Maharashtra Employees Union on 17.9.2007 and according to him it is the recognised union which can negotiate a settlement with the employer.

8. The purchaser has also sought intervention in the matter.

9. This Court is not concerned with the inter se dispute between the review petitioner and the respondent employer as well as the intervener union which has surfaced and known as Maharashtra Employees Union. The Court disposed of the writ petition filed by the employer in respect of the issue which was before it i.e. the discharge of the RRC which was sought to be executed by respondent nos. 1 and 2 by attachment and sale of property of the petitioner employer and the minutes of the order restricts to the challenge in the writ petition and does not in any manner act as an impediment in so far as the claim of other workmen is concerned. We further make it clear that it does not prevent the review petitioner to approach appropriate forum and seek relief in the matter. In so far as the inter se dispute between the review petitioner, who claims to be the recognised union, and the intervener Maharashtra Employees Union is concerned, they have an alternate remedy to demonstrate as to who represents the workmen of the employer as what we understand from the rival contentions made by the learned counsel for the review petitioner and the intervener Maharashtra Employees Union is that the Maharashtra Employees Union claims that they represent all the employees of M/s. Pure Drinks Ltd., (original petitioner) which, according to them, are 295 workers. Therefore, in the given facts and circumstances, when parties have alternative remedy

in the matter, this Court is not inclined to entertain the review petition. The Review Petition, therefore, stands dismissed. No order as to costs.

10. This Court makes it clear that the directions (f) and (o) does not bind respondent no. 3 in case of workmen whose dues are not settled in taking necessary steps as we have already clarified that the minutes of the order will only apply for discharge and satisfaction of the RRC which was the subject matter of the petition before the Court and not with regard to any other issues.

11. In view of the dismissal of the review petition, the notice of motion and the chamber summonses do not survive and the same stand dismissed.

(J.N. Patel, J.)

(A.A. Sayed, J.)